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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,160	02/09/2004	Fredrica V. Coates	50014-056	5449

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/773,160

Applicant(s)

COATES, FREDRICA V.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7, 8 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-8 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Appendix A.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-22-07 has been entered.

Specification

Drawings

2. The drawings were received on 1-22-07. These drawings are approved by the Examiner. However see the following paragraph.

3. The drawings are objected to because in Figure 9, the upper 42 should have a dashed not solid line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of

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the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Are the releasable fastener in claim 7 and the releasable fasteners in claim 17 one and the same, i.e. how many fasteners at a minimum are being required?

Claim Language Interpretation

5. The terminology "fluid-resistant" will be interpreted as resistant to fluid and "resistant" is interpreted as "giving or capable of resistance", i.e. its dictionary definition. Therefore, absent claiming specific dimensions of resistance to fluid, the terminology "fluid-resistant" will be considered relative. Due to the lack of clarity discussed supra, claim 17 is interpreted to further define the fastener of claim 7 as having cooperable portions respectively located on the sling and anchor layers. It is noted that the language added to claim 7, line 5 is interpreted to require non-monolithically formed layers. It is further noted that such is

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considered to recite the same structure as previously presented on lines 2-4 and the remainder of line 5.

Claim Rejections - 35 USC § 102/103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 7-8 and 17-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bernard '983.

See Figures 7-9, and note the blow-up of Figure 9 in Appendix A attached to this action, col. 1, line 55-col. 2, line 6, col. 2, lines 14-31 and col. 3, lines 23-43, i.e. the outer layer is the outer layer of 15a, the anchor layer is the inner layer of 15a, the stitching is 17, the sling layer is 53 which includes four sides and is directly detachably coupled to the anchor layer but not directly detachably coupled to the outer layer, i.e. only indirectly so coupled, by a releasable fastener which is a snap fastener of two portions 51, 52 located respectively on the anchor layer and sling layer. The sling layer extends from the anchor layer on the inner side of the undergarment when the undergarment is worn to form a pocket facing inwardly away from the anchor layer. The sling layer is displaced inwardly from corresponding sides toward the center of the anchor layer and inwardly from the stitches between the anchor layer and the outer layer at, e.g., 7b, 7c, 8b, and 8c. It is noted that the entire periphery/all portions of all four sides of the sling layer is/are not required to be so inwardly displaced from the entire periphery of the anchor layer. However also note the position of 31 in Figure 3 and the position of 51 and 52 in Figures 7-9 with regard to stitching 17. The fastener 51 on the anchor layer is located between but only

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adjacent opposite terminal ends of the sling layer, see Figures 7-9. The outer layer is disclosed as a fabric sheet made of any fabric suitable for baby garments such as rayon. Since at the very least all sheet materials provide some resistance to fluids, absent claiming of specific water resistance, such outer layer is considered "fluid-resistant". The sling layer is also claimed as being "fluid resistant". While the pocket of the embodiment of Figures 1-6 is disclosed as made of water repellant or water proof material and having elements 16, 27, 25, 25a and the embodiment of Figures 7-9 is disclosed as also having a pocket but one which is detachable and includes elements 16a, 27a, 25c, 25b, the '983 does not explicitly disclose whether the pocket of Figures 7-9 is also water repellant or water impermeable. Therefore, it is the Examiner's first position that '983 includes a "fluid resistant" sling layer either because the pocket is of some sheet material and since all sheet materials provide some resistance to fluids, absent claiming of specific water resistance, such sheet material is considered "fluid-resistant", or because the pocket is of water repellant or water impermeable material, i.e. "fluid resistant". However, even if not already "fluid resistant" for such reasons, it is the Examiner's second position that to employ a water repellant or water impermeable material as taught by '983 for the pocket of the first embodiment of Figures 1-6 also for the pocket of the embodiment of Figures 7-9 would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide the pocket of the second embodiment with the same the fluid resistant capabilities and the desire of '983 to provide a garment in the second embodiment similar to that of the first embodiment but with a detachable pocket.

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Response to Arguments


8. Applicant's remarks have been carefully considered but are either deemed moot in that the issue/rejection addressed has not been reraised or deemed not persuasive for the reasons set forth supra. Specifically, contrary to Applicant's remarks and as shown in Figures 7-9, the latter of which has been enlarged and provided in the previously mentioned Appendix A, the layers of 15a of Bernard are separate sheets not just opposite surfaces /sides of the same layer.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
February 12, 2007

Appendix A

FIG. 9.

